

REMARKS

Claims 1-4, 6-9, 11-13, 15-29, 31-32, and 34-35 were pending in the application, with Claims 1, 6, 19, and 31 being independent. Applicant amends Claims 1, 6, 19, and 31 to further clarify features of the claimed subject matter. The original specification and drawings support these claim amendments at least at pages 5-7, 9, 11-12, and 14, and in Figures 3, and 5-6. These revisions introduce no new matter.

Claims 1-4, 6-9, 11-13, 15-29, 31-32, and 34-35 are now pending in the application. Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 112, second paragraph

Claims 1-4, 6-9, 11, 13, 15-29, 31-32, and 34-35 are rejected under 35 U.S.C. § 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. Applicant amends independent **Claims 1, 6, 19, and 31** to clarify the subject matter (*see Claim Rejections Under 35 U.S.C. § 103(a) discussion below*) and support may be found in the original specification at least at pages 11 and 12. Thus, no new matter has been introduced.

Applicant respectfully submits that these claims now comply with 35 U.S.C. § 112, second paragraph, and as a result the rejections are now moot. Furthermore, dependent Claims 2-4, 7-9, 11, 13, 15-18, 20-29, 32, and 34-35, depend directly or indirectly from one of independent Claims 1, 6, 19, and 31, respectively, and are allowable by virtue of this dependency. Applicant respectfully requests that the § 112 rejections be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

A. Claims 1, 6-9, 19, 24, 31-32, and 34-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0016842 to Patton et al. (hereinafter “Patton”), in view of U.S. Patent Application Publication No. 2003/0110516 to Chang et al.(hereinafter “Chang”), in view of U.S. Patent No. 6,314,518 to Linnartz, and further in view of U.S. Patent Application Publication No. 2004/0028257 to Proehl.

B. Claims 2 and 11 stand rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, and Proehl, and further in view of U.S. Patent No. 6,411,712 to Yoshida et al. (hereinafter “Yoshida”).

C. Claims 3, 4, 13, 15-16, and 20-23 stand rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, Proehl, and Yoshida, and further in view of U.S. Patent Application No. 2002/0080964 to Stone et al. (hereinafter “Stone”).

D. Claims 17 and 18 stand rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, Proehl, Yoshida, and Stone, further in view of U.S. Patent Application No. 2003/0037010 to Schmelzer et al. (hereinafter “Schmelzer”).

E. Claim 25 stands rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, and Proehl, further in view of U.S. Patent Application No. 2003/0165253 to Simpson et al. (hereinafter “Simpson”).

F. Claims 26 and 27 stand rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, Proehl, and Simpson, further in view of Schmelzer.

G. Claims 28 and 29 stand rejected under §103(a) as being unpatentable over Patton, Chang, Linnartz, Proehl, Simpson, Schmelzer, and further in view of Stone.

Applicant respectfully traverses the rejection.

Independent Claim 1

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends independent Claim 1 to further clarify features of the subject matter. **Independent Claim 1** as amended now recites a method having computer instructions executable by a processor, comprising:

receiving, on a user device, a video content to be branded with personal information of a user to deter the user from unauthorized redistribution of the video content, wherein the video content is digital or analog;

receiving, on the user device, metadata about the video content, wherein the metadata contains instructions about which programs of the video content to brand and a branding strength for the video content;

interpreting the metadata received to determine whether to brand the video content by adding a personal identifier based on corresponding instructions contained within the metadata;

selecting a security level of the video content to be branded based on sensitivity of the video content as received via interpreted metadata;

branding the video content to be branded by adding the personal identifier, stored on the user device, to the video content, wherein the personal identifier is different for each user device and each user and the personal identifier does not have to be sent to a provider of the video content;

retaining the personal identifier on a hidden border of a frame on a television monitor; and

displaying the personal identifier when the video content is transferred to a computing device, wherein the personal identifier displays information associated with the user of the video content, wherein the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scan patterns for analog video content, and wherein the personal identifier distinguishes

channels to brand and channels to leave unbranded, branded channels having a level of security for a program.

Applicant respectfully submits that no such method is disclosed, taught, or suggested by Patton, Chang, Linnartz, and Proehl, alone or in combination.

Patton, Chang, Linnartz, and Proehl Fail to Disclose, Teach, or Suggest Branding the Video Content by Adding a Personal Identifier Stored on the User's Device Wherein the Personal Identifier is Different for Each User Device and Depends on how the Corresponding Metadata is Interpreted

Patton is directed towards embedding in a digital file information that has a latent value to the purchaser, thus providing an incentive for the purchaser not to disseminate either an encryption key or the digital content (Patton, paras. 0001, 0015). In Patton, a digital string is embedded in a digital file at a provider using various techniques for digital watermarking, steganography, encryption, etc., before the file is distributed (Patton, paras. 0030, 0032, 0052). As discussed below in greater detail, Patton does not even mention use of metadata or branding.

Chang fails to compensate for the deficiencies of Patton. Chang is directed towards conveying information pertaining to broadcast content such that the system is robust and stripping or blocking of data is difficult (Chang, Abstract). Chang discusses a non-vertical blinking interval (VBI) enhancement to conventional TV or radio signal in active video (or audio) area of the signal, either by encoding the content with a digital watermark or by embedding an object (such as an image) in the active video area of TV content (Chang, para. 0023). Furthermore, Chang discusses that data transmitted outside

the VBI includes the border area generally overscanned by most TV systems (Chang, paras. 0023, 0029). Chang also fails to mention use of metadata or branding.

Linnartz fails to compensate for the deficiencies of Patton and Chang. Linnartz is directed towards a system for copy protecting content information where the system has an arrangement for receiving and controlling the playback of encoded video (Linnartz, Abstract). The system in Linnartz comprises a decoder device arranged separately from the receiver device, resulting in using the complex content information decoder present in a reproduction device to perform watermark detection (Linnartz, col. 2, lines 1-19). This type of linked system described in Linnartz allows for use of a high quality watermark (Linnartz, col. 2, lines 20-31).

Proehl fails to compensate for the deficiencies of Patton, Chang, and Linnartz. Proehl is directed towards watermarking a video display based on a viewing mode (Proehl, Title). In Proehl, a viewer is provided with information when video content is fast-forwarded (i.e., information could be an advertisement) without requiring extensive modification of video content's encoding format (Proehl, paras. 0001, 0003, 0016). Proehl utilizes MPEG-4 standard by including metadata indicating what to do with the visual content based on a playback mode (Proehl, para. 0004). Proehl watermarks the video content during a modified playback mode (such as fast-forward) and intends that the watermark be visible to the user during such playback (Proehl, paras. 0004, 0015).

Applicant's amended Claim 1 recites, in part, "*receiving, on a user device, a video content to be branded . . . receiving, on the user device, metadata about the video content . . . interpreting the metadata received to determine whether to brand the video content by adding a personal identifier based on corresponding instructions contained*

within the metadata; selecting a security level of the video content to be branded based on sensitivity of the video content as received via interpreted metadata; branding the video content to be branded by adding the personal identifier, stored on the user device, to the video content, wherein the personal identifier is different for each user device and each user and the personal identifier does not have to be sent to a provider of the video content”.

Contrary to Patton, Chang, Linnartz, and Proehl, Applicant’s amended Claim 1 discusses branding the video content based on interpretation of corresponding interpreted metadata (Application, Figs. 3, 5, pgs. 5-7, 11-12). Patton, Chang, and Linnartz do not even mention metadata or branding as recited in Applicant’s amended Claim. While Proehl does mention metadata indicating how to watermark a video content, this metadata is directed to a playback mode and not to instructions about different programs, branding strength, or security level, as recited in Applicant’s amended Claim 1 (see Application, pgs. 9, 11-12). Furthermore, none of the references discuss a personal identifier being different for each user and not being sent to the provider of the video content, as recited in Applicant’s amended Claim 1 (Application, pgs. 5-7).

Thus, Patton, Chang, Linnartz, and Proehl, alone or in combination, do not disclose, teach, or suggest “*interpreting the metadata received to determine whether to brand the video content by adding a personal identifier based on corresponding instructions contained within the metadata . . . branding the video content to be branded by adding the personal identifier, stored on the user device, to the video content, wherein the personal identifier is different for each user device and each user and the personal identifier does not have to be sent to a provider of the video content*”, as recited in

Applicant's amended Claim 1. Accordingly, Applicant respectfully requests that the § 103 rejection be withdrawn.

No Reason to Modify or Combine References

The MPEP states, “if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification” (MPEP § 2143.01 V).

Applicant reviews the evidence and submits that the evidence no longer establishes a reason for one of ordinary skill in the art, to modify the system of Patton to include the features described in Chang, Linnartz, and Proehl, as suggested by the Office. For example, modifying Patton to include watermarking a video display based on a viewing mode, as described in Proehl, would render Patton unsatisfactory for its intended purpose. In particular, Patton discusses embedding information in a digital file prior to distribution, and Proehl discusses using the watermark during a modified playback mode to provide viewer with a useful content during such mode. Furthermore, Patton and Linnartz seem to teach away from each other as Patton is directed toward providing an incentive for a user not to disseminate the content, but Linnartz utilizes a linked system to detect copy protection information. Therefore, this modification presented would render Patton inoperable.

Thus, there is no evidence to modify the references, as the modification would render Patton unsatisfactory for its intended purpose in providing an incentive for the user not to disseminate the video content. Applicant respectfully submits that the

evidence relied upon by the Office does not support the rejections made under § 103, and for this additional reason requests the §103(a) rejection of these claims be withdrawn.

Independent Claims 6, 19, and 31

Independent Claims 6, 19, and 31 are directed to a method, a branding engine, and a computer-readable storage media, respectively, and each is allowable for reasons similar to those discussed above with respect to Claim 1.

Independent Claim 6 recites a method having computer instructions executable by a processor, comprising:

- receiving video content on a first client device;
- receiving, on the first client device, metadata about the video content, wherein the metadata contains instructions about which programs of the video content to brand and a branding strength for the video content;
- interpreting the metadata received to determine whether to brand the video content by adding a personal identifier based on corresponding instructions contained within the metadata;
- adding the personal identifier to the video content, wherein an amount of the personal identifier that is added to the video content is based on a security level of a program;
- retaining the personal identifier on a hidden border of a frame on the first client device; and
- displaying the personal identifier when the video content is replayed on a second client device, wherein the personal identifier signifies personal identity information of an owner of the first client device, wherein the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scan patterns for analog video content, and wherein the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program.

Applicant respectfully submits that Patton, Chang, Linnartz, and Proehl, alone or in combination, fail to disclose, teach, or suggest these features as recited in Claim 6, as amended.

Independent Claim 19 recites a branding engine for video content, comprising:

 a brand generator, on a user device, to produce a brand, wherein the brand includes at least one piece of personal identity information stored on the user device, about a user of the video content and is different for each user device and each user;

 a branding decision engine, wherein if the video content comprises frames, then to decide which frames of the video content are to receive the brand;

 a branding selector configured to determine what characteristics will comprise the brand, wherein the branding selector decides on at least an amount of personal identity information, a visual size of the brand, and a display location of the brand;

 a branding decision engine configured to interpret metadata corresponding to the video content to determine which video content to brand based on metadata of the video content;

 a security level module configured to interpret security information from the metadata to determine a security level of the video content corresponding to the metadata;

 the branding decision engine further configured to send an indication to the brand generator to brand the video content when the branding decision engine determines to brand the video content; and

 an overlay generator configured to place the brand in the video content on a hidden border of the frames wherein the brand is displayed outside a title safe zone on a television monitor;

 wherein the brand is placed on at least one of a fixed number of frames or a fixed number of scanned analog video content;

 wherein the branding decision engine distinguishes channels to receive the brand and channels to leave unbranded, branded channels having a level of security for a program;

 the branding decision engine further configured to determine which channels to brand based on the metadata information; and

 the branding decision engine further configured to employ interpreted metadata corresponding to the video content to determine a branding strength for the video content based on the level of security for the program.

Applicant respectfully submits that Patton, Chang, Linnartz, and Proehl, alone or in combination, fail to disclose, teach, or suggest these features as recited in Claim 19, as amended.

Independent Claim 31 recites one or more computer readable storage media containing instructions that are executable by a computer to perform actions comprising:

receiving a personal identifier of a video content user, wherein the personal identifier contains information associated with the video content user;

receiving metadata in a packet about the video content user and about a video content received by the video content user;

interpreting the metadata received to determine whether to brand the video content received by the video content user, wherein branding comprises adding the personal identifier to the video content based on corresponding instructions contained within the metadata;

selecting a security level of the video content to be branded based on sensitivity of the video content as received via interpreted metadata;

determining which channels of the video content to brand based on instructions in the metadata associated with the video content;

determining a branding strength for the video content based on information in the metadata.

branding the video content determined to be branded by adding the personal identifier to the video content received by the video content user;

retaining the personal identifier on a hidden border of a frame; and

displaying the personal identifier when the video content is replayed on a client device, wherein the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scan patterns for analog video content, and wherein the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having the security level for a program of the video content.

Applicant respectfully submits that Patton, Chang, Linnartz, and Proehl, alone or in combination, fail to disclose, teach, or suggest these features as recited in Claim 31, as amended.

Dependent Claims 2-4, 7-9, 11-13, 15-18, 20-29, 32, and 34-35 depend directly or indirectly from one of independent Claims 1, 6, 19, and 31, respectively, and are allowable by virtue of this dependency. These claims are also allowable for their own recited features that, in combination with those recited in Claims 1, 6, 19, and 31 are not disclosed, taught, or suggested by Patton, Chang, Linnartz, and Proehl, alone or in combination.

Applicant respectfully submits that Patton, Chang, Linnartz, and Proehl, alone or in combination, do not render the claimed subject matter obvious and that the claimed subject matter, therefore, is patentably distinguishable over the cited references. For all of these reasons, Applicant respectfully request the §103(a) rejection of these claims be withdrawn.

CONCLUSION

Claims 1-4, 6-9, 11-13, 15-29, 31-32, and 34-35 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully submitted,

Lee & Hayes, PLLC

Dated: 01/22/2009

By: / Dino Kujundzic /
Dino Kujundzic
Reg. No. 63,104
509-944-4762

Shirley L. Anderson
Reg. No. 57,763
509-944-4758